



DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REVENUE SERVICES, INCOME/ESTATE TAX DIVISION

Rule No. 805 (18-125 CMR 805)

COMPOSITE FILING

SUMMARY: This rule establishes procedures for filing of composite returns of income by partnerships, estates, trusts, and S corporations on behalf of their partners, beneficiaries, or shareholders.

.01 Definitions.

A. "Composite return" (also known as "block filing") means the Maine composite return filed by an entity on behalf of some or all of its partners, beneficiaries, or shareholders who are "eligible persons," as defined in Section .01(C) below.

The form for filing purposes is a Maine individual income tax return (Form 1040ME) labeled "composite return."

B. Electing Small Business Trust. "Electing Small Business Trust" (ESBT) has the same meaning as given to that term by Internal Revenue Code Section 1361(e).

C. Eligible person. "Eligible person" means an individual who is a nonresident individual for the entire taxable year, and whose entire Maine adjusted gross income, including spouse's income in the case of married individuals filing a joint return, is entity income.

"Eligible person" also includes that portion of a federally recognized Electing Small Business Trust (ESBT) that consists of holdings of stock in an S corporation. To be an eligible person, an ESBT must be a nonresident trust for Maine income tax purposes. If an ESBT holds stock in more than one S corporation, each such stock holding must be considered separately for determining eligibility under this paragraph and must be treated as a separate eligible person for the purposes of this rule.

D. Entity. "Entity" means a partnership, limited partnership, limited liability partnership, estate, trust, or S corporation. "Entity" also includes a limited liability company classified as a partnership for federal income tax purposes.

E. Entity income. "Entity income" means an eligible person's distributive share of the net income of an entity, apportioned to Maine in accordance with 36 M.R.S.A., Chapter 821.

"Entity income" for an Electing Small Business Trust means the ESBT's distributive share of net income of an S corporation taxable pursuant to Internal Revenue Code, Section 641(c), and apportioned to Maine in accordance with 36 M.R.S.A., Chapter 821. If an ESBT holds stock in more than one S corporation, the entity income of each holding must be determined separately for purposes of this rule.

F. Ineligible person. "Ineligible person" means a person, other than an eligible person, who has entity income.

G. Tiered Partnership. A tiered partnership (or similar group of related flow-through entities) is an arrangement in which some or all of the interests in one partnership (lower tier partnership) are held by another partnership (upper tier partnership). A tiered partnership arrangement may have two or more tiers.

.02 Filing of Returns.

A. Generally. An entity may, with the permission of the State Tax Assessor, file a composite return on behalf of its partners, beneficiaries, or shareholders who are eligible persons and who elect to participate in the composite filing. Eligible persons who are included in the composite filing will be deemed to have filed a Maine income tax return for the period covered by the composite return. Partners, beneficiaries, or shareholders who participate in the composite filing are personally liable for the tax amount reported on their behalf in the composite return and any tax, interest or penalty which may be assessed for that period in the same way as if a composite return had not been filed. The assessor reserves the right to require the filing of a Maine nonresident individual income tax return by any of the eligible persons included in the composite return.

B. Information required. The composite return must include, at a minimum, the name and taxpayer identification number of each eligible person included in the return, the amount of each eligible person's entity income and the tax thereon, the amount of each eligible person's share of any business tax credit claimed, the amount of any payments previously made and applied to each person's tax liability, and the amount of payment included with the return and applied to each person's tax liability.

C. Composite Returns for Tiered Partnerships: A tiered partnership, or similar group of related flow-through entities, may file a single composite return on behalf of the non-resident partners of a tiered partnership group if each partnership and nonresident partner or shareholder is otherwise eligible to participate in the filing of a composite return. A nonresident partner with Maine source income not derived from the partnerships included in the composite return may not participate in the filing of the composite return. In addition to satisfying the general requirements of this Rule, the following additional requirements must also be met:

- (1) Each of the lower-tier partnerships (including any related flow-through entity with individual partners or shareholders) must join in the filing of a single composite return on behalf of its electing partners.

(2) A schedule must be attached to the composite return indicating each partner's distributive share of Maine source income from each partnership, and the total amount of Maine source income received by each partner from all partnerships in the group.

(3) A statement must be attached to the composite return, including an organizational chart, disclosing the structure and identity, including the names, addresses and federal identification numbers, of all the related entities from which participating nonresident partners directly or indirectly derive Maine source income.

.03 Election to Participate in Composite Filing.

An entity filing a composite return should obtain authorization from those eligible persons included in the composite return to file a Maine individual income tax return on their behalf. The filed composite return constitutes a statement that authorization has been obtained from each included eligible person. By granting such authorization an eligible person waives any right to file an amended return, except through an amended composite return, for any taxable year for which a composite filing has been made on the eligible person's behalf.

.04 Computation of Tax.

The Maine income tax liability of each eligible person who elects to be included in a composite return shall be separately determined as follows:

A. Information provided. For each such person who provides to the entity sufficient information to permit computation of his or her Maine income tax liability in accordance with the provisions of 36 MRSA ' 5111(4), the person's tax liability shall be the amount so computed.

B. Information not provided. For each such person who does not provide to the entity sufficient information to permit computation of his or her Maine income tax liability in accordance with the provisions of 36 MRSA ' 5111(4), the person's tax liability shall be equal to the person's entity income multiplied by the highest marginal rate provided in 36 MRSA ' 5111(1-A).

.05 Business Credits.

Each participating eligible person may claim the person's share of the business credits to which the eligible entity is entitled. (See 36 M.R.S.A., Section 5219-G.)

.06 Payment of Tax.

An entity may make estimated or actual payments of Maine income tax on behalf of both eligible persons and ineligible persons. The payment must be accompanied by a schedule which includes, at a minimum, the name and taxpayer identification number of each person on whose behalf a payment is being made, the amount of the payment allocable to each person, and an indication that each person either has or has not elected to file on a composite return for that taxable year.

The Maine income tax return of each person not included in the composite filing, on whose behalf a payment has been made by the entity, must include a copy of the federal Partner's/Shareholder's Share of Income, Credits, Deductions, etc. (IRS Schedule K-1, Form 1065, 1041, or 1120-S) furnished to the person by the entity. Additionally, the schedule must include any amount paid to the State of Maine by the entity on the person's behalf.

.07 Amended Returns.

A composite return may not be changed or corrected except by an amended composite return filed by the entity.

.08 Taxable Years.

Notwithstanding the provisions of 36 MRSA ' 5102(1-C) and ' 5102(11), the taxable year of an eligible person included in a composite return is the taxable year of the entity, and the Maine adjusted gross income of an eligible person included in a composite return is that person's entity income for that taxable year.

.09 Due Date.

The due date of the composite return is the fifteenth day of the fourth month following the close of the taxable year of the entity.

AUTHORITY: 36 MRSA ' ' 112, 5192(5).

EFFECTIVE DATE: September 21, 1987

AMENDED: February 14, 2000